

Revised
Meet and Confer Agreement
between
The City of Abilene
and
Abilene Professional Fire Fighters
Association, IAFF Local 1044

**Fiscal Years 2019-2020, 2020-2021, 2021-2022 and 2022-
2023**

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DEFINITIONS

1. “Agreement” means the Meet and Confer Agreement entered between the Abilene Professional Fire Fighters Association and the City of Abilene.
2. “Association” means the Abilene Professional Fire Fighters Association, (IAFF Local 1044), its elected leaders and its collective membership.
3. “City” means the City of Abilene, its mayor, city council members, city manager, fire chief and those persons designated by the City of Abilene to manage the city and its fire department.
4. The term “commission” means the City of Abilene Firefighters’ and Police Officers’ Civil Service Commission.
5. The term “day” or “days” shall mean calendar days unless otherwise specified.
6. The term “Department” means the Abilene Fire Department.
7. The term “Department head” means the Chief of the Abilene Fire Department, his or her designee, or an acting Chief of the Abilene Fire Department.
8. The term “director” means the Director of the City of Abilene Firefighters’ and Police Officers’ Civil Service Commission.
9. The term “dues” means the cost of membership in the Association.
10. The term “firefighter” means a firefighter employed by the Fire Department by the City of Abilene.
11. The term “local rules” means the Local Rules and Regulations promulgated by the City of Abilene Firefighters’ and Police Officers’ Civil Service Commission.
12. “Parties” means the City of Abilene and the Abilene Professional Fire Fighters Association and “Party” means the City of Abilene or the Abilene Professional Fire Fighters Association.

ARTICLE 1

PARTIES AND PURPOSE OF MEET AND CONFER

The Parties to this Agreement are the CITY OF ABILENE, TEXAS, a home rule municipality organized under Texas law and the ABILENE PROFESSIONAL FIRE FIGHTERS ASSOCIATION, LOCAL NO. 1044, INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS.

It is the intent and purpose of the Meet and Confer negotiations and this Agreement, entered into by and between the CITY OF ABILENE, and the ABILENE PROFESSIONAL FIRE FIGHTERS ASSOCIATION, LOCAL NO. 1044, to achieve and maintain harmonious relations between the Parties related to the salaries, working conditions and other conditions of employment in accordance with Subchapter C of 142 Texas Local Government Code and not deny local control by the City except as provided by this Agreement.

ARTICLE 2

RECOGNITION

The CITY OF ABILENE recognizes the ABILENE PROFESSIONAL FIRE FIGHTERS ASSOCIATION, LOCAL NO.1044, as the sole and exclusive bargaining agent for the covered firefighters described in the petition for recognition, excluding the head of the fire department and excluding the employees exempt under Subsection (b), in accordance with subchapter C of Chapter 142 of the Texas Local Government Code. The Parties understand and agree the provisions of this Agreement do not extend to employees outside of the Department.

ARTICLE 3

DUES DEDUCTION

Section 1. Dues Check Off

- (a) If a firefighter requests in writing the payment of membership dues to the Association, the City shall deduct the dues from the firefighter's monthly salary or wages. A firefighter's request must: (1) be set out in a form prescribed and provided by the City's Human Resources Department; (2) state the amount to be deducted each month, and; (3) direct the City's Human Resources Department to transfer the deducted funds to the Association, by either check or electronic direct deposit.
- (b) The dues deduction for the Association shall be remitted promptly to the Administrative Office of the ABILENE PROFESSIONAL FIRE FIGHTERS ASSOCIATION, LOCAL NO.1044.
- (c) During the term of this Agreement, the City agrees that it will not authorize payroll deduction of dues or fees for any other organization that purports to represent Abilene firefighters in employment matters.
- (d) Sections 141.008(d) and 141.008(e) of the Texas Local Government Code shall apply to a deduction request under this article. This article supersedes section 141.008(a-1) to the extent it conflicts with this article.

ARTICLE 4

HIRING

Section 1. Select Application of Chapter 143 Procedures

In adopting this article, the parties mutually agree to hold each other harmless, including their agents, officers and employees, from any and all claims from Association members or third parties arising from the application of or use of the modifications from TLGC 143, subchapter B Classification and Appointment. Further, the parties agree to preempt the TLGC Chapter 143, Subchapter B Classification and Appointment procedures Sections 143.021, 143.032, 143.024, 143.025, 143.0251, 143.026, and 143.027 except as stated in this article. In preempting Chapter 143, the parties recognize the need for more flexibility in the hiring process to meet the needs of the Department and believe it improves the selection process and provides candidates a fair opportunity to display skills and abilities that serve as additional good indicators that they will perform well in the Department. Further, this article preempts, to the extent of any conflict, all contrary state statutes, local ordinances, executive orders, civil service provisions, or rules adopted by the Department head or the commission.

Section 2. Classification

Classification under TLGC Section 143.021 (a)-(b)-(c) shall apply, except that an existing or future position or classification may be filled only according to the Department's hiring process in accordance with the Agreement.

Section 3. Definition of Vacant Position

For purposes of this article, vacant position shall mean a vacant position in the Fire Fighter classification.

Section 4. Physical Requirements and Examination

The physical requirements and physical/mental examinations under TLGC Section 143.022 shall apply to fill vacant positions in the Department.

Section 5. Eligibility for Vacant Position

The eligibility requirements under TLGC Sections 143.023(b), 143.023(d), and 142.023(f) shall apply to fill vacant positions in the Department. A person is not eligible to apply for a vacant position in the Department unless the person meets minimum eligibility requirements for a firefighter as outlined in the local rules.

Section 6. Reappointment After Resignation

The commission shall adopt rules to allow a fire fighter who voluntarily resigns from the Department and meets the eligibility requirements for a vacant position to be reappointed to the Department at the sole discretion of the Department head.

Section 7. Procedure for Filling Vacant Positions

(a) Rank on the eligibility list

Candidates shall be ranked on the eligibility list based upon a combination of the final written examination score, and the oral interview board score.

The final written examination score will include points added for certifications deemed beneficial to the Abilene Fire Department. Certification points will include:

- (5) Points – Military Experience
- (3) Points - Texas Commission on Fire Protection Structural Firefighter
- (3) Points – Dept. of State Health Services Paramedic

An initial written examination score of 70 points, which excludes points added for certifications, is required in order to proceed to the physical ability testing (PAT) phase of the hiring process. A minimum of five (5) candidates for each available opening, will advance to the PAT phase. If the minimum number of candidates is not available, then all of the candidates scoring above a 70 on the written examination will proceed to the PAT phase. The number of available openings will be determined prior to the date of the written examination.

The final written examination score will be the initial written examination score plus all certification points. Certifications must be current in order to receive additional points.

(b) TCFP-certified applicants

Applicants possessing structural firefighter certification from the Texas Commission on Fire Protection (TCFP) will receive additional points in the ranking process. These Applicants may be eligible to attend an Orientation Academy, in place of a full Fire Academy, if hired. This eligibility will be determined during the hiring process and at the discretion of the Department head.

(c) Eligibility Period

The hiring eligibility list shall expire on a date to be determined by the Department head, which shall not exceed twelve (12) months from the date of publication.

(d) Appointment to a vacant position

(i) When a vacancy occurs in a vacant position in the Department, the Department head shall request in writing from the commission the names of suitable persons from the eligibility list. The director shall certify to the Department head the names of the persons on the eligibility list. From the names certified, the Department head shall appoint the person having the highest score unless there is a valid reason why the person having the highest score should not be appointed.

(ii) If the Department head does not appoint the person having the highest score, the Department head shall clearly set forth in writing the good and sufficient reason why the person having the highest score was not appointed.

(iii) The reason required by subsection (ii) shall be filed with the commission and a copy provided to the person having the highest score.

Section 8. Probationary Period

(a) Probationary Period

A person appointed to a vacant position in the Department must serve a minimum probationary period of twelve months. In the event that the person appointed to a vacant position in the Department has not obtained his/her EMT-Paramedic certification within the minimum twelve-month probationary period, such person's probationary period shall be extended for such time until he obtains his/her EMT-Paramedic certification, or for an additional twelve-month period, whichever occurs sooner.

(b) Membership in Employee Organizations

TLGC Section 143.027(c) shall apply.

(c) Civil Service Protection

A firefighter who was appointed through the Department's hiring process and who serves the entire applicable probationary period automatically becomes a full-fledged civil service employee and has full civil service protection except as modified by this Agreement.

ARTICLE 5
PROMOTIONS

Section 1. Intent

In adopting this article, the Parties agree to implement a promotional system using an Assessment Center component in addition to the written examination. The Parties believe an assessment component to the selection process has improved the selection process and provides promotional candidates a fair opportunity to display skills and abilities that serve as additional good indicators that they will perform well in the position of Fire Lieutenant, Fire Captain or Battalion Chief.

Section 2. Promotional Examination Procedure

- (a) The promotional examination procedure will consist of two parts:
1. a written examination, as defined in this article, consisting of one-hundred (100) multiple choice questions; and, upon passing the written examination part of the promotional examination procedure;
 2. participation in an Assessment Center.
- (b) The minimum passing score on the written examination is 70 percent.
- (c) The commission shall adopt rules governing the promotional examination procedure and promotional eligibility lists in accordance with this article and in accordance with Appendix A for the promotional positions of Fire Lieutenant, Fire Captain, and Battalion Chief. Further, the commission may adopt rules to provide for the efficient administration of a promotional examination to eligible promotional candidates who are members of the armed forces serving on active military duty which may include using only the written examination for each candidate for one hundred percent (100%) of all promotional candidates' final scores. If a written examination is offered to an active military candidate, and that candidate receives a minimum passing score, the remaining candidates shall only be required to take the written portion of the promotional process and **Article 4, Section 2 (a) 2** shall not apply to the examination. If the active military candidate does not receive a minimum passing score, Article 4, Section 2 (a) 2 shall still apply.

Section 3. Joint Labor/Management Committee

- (a) A joint Labor/Management Committee (the Committee) shall be established for the purpose of providing feedback and/or mutually agreed upon adjustments to the promotional process outside the regular meet and confer negotiation cycle. Each Party shall designate four (4) representatives to serve on the Committee. A minimum of six (6) members of the Committee including three (3) from labor and three (3) from management must be present for a meeting to be held.
- (b) Committee may be convened prior to an Assessment Center process to provide input to the City regarding the selection of a consultant to prepare and administer the Assessment Center

portion of the Promotional Examination Procedure. The parties, through the director and the Association President, may mutually agree it is unnecessary to convene the committee prior to an Assessment Center to provide feedback regarding the consultant.

(c) The Committee may be convened to evaluate an Assessment Center process at its conclusion. The parties, through the director and the Association President, may mutually agree it is unnecessary to convene the committee following an Assessment Center to evaluate the process.

(d) The Committee may be convened to amend the promotional process by mutual agreement of the Committee and with approval from the commission.

Section 4. Written Examination

(a) The term “written examination” in this article means the written examination provided for under Chapter 143 of the Texas Local Government Code and does not mean any written part of the Assessment Center. The promotional candidate’s score on the written examination shall constitute the candidate’s written score.

(b) For a promotional candidate applying for the Fire Lieutenant classification, sixty percent (60%) of a promotional candidate’s composite score will be based on the written score.

(c) For a promotional candidate applying for the Fire Captain classification, fifty percent (50%) of a promotional candidate’s composite score will be based on the written score.

(d) For a promotional candidate applying for the Battalion Chief classification, forty percent (40%) of a promotional candidate’s composite score will be based on the written score.

Section 5. Assessment Center

(a) For a promotional candidate applying for the Fire Lieutenant classification, forty percent (40%) of a promotional candidate’s composite score will be based on an Assessment Center.

(b) For a promotional candidate applying for the Fire Captain classification, fifty percent (50%) of a promotional candidate’s composite score will be based on an Assessment Center.

(c) For a promotional candidate applying for the Battalion Chief classification, sixty (60%) percent of a promotional candidate’s composite score will be based on an Assessment Center.

(d) The parties agree that certain circumstances may present themselves in a promotional process whereby the promotional candidates may voluntarily choose to waive his/her right to the Assessment Center process, upon recommendation by the Joint Labor/Management Committee. In such situations, ALL candidates must unanimously agree to the voluntary waiver. If so, the parties mutually agree to utilize the “**WAIVER OF RIGHT TO ASSESSMENT CENTER PROCESS**” form included as Appendix C to this Agreement. If all candidates do not agree to waive the Assessment Center, then it will proceed as set forth.

Section 6. Procedure for Making Promotional Appointments

(a) For promotional candidates applying for the Fire Lieutenant classification, the final score to be placed on the eligibility list for each candidate shall be computed by taking the candidate's written score and multiplying the written score by .60 to account for sixty percent (60%) of the candidate's composite score; by taking the candidate's Assessment Center score and multiplying that score by .40 to account for forty percent (40%) of the composite score; by adding the products together to equal the composite score; and by adding any applicable seniority points, not to exceed ten (10) seniority points, to the composite score to compute the final score (see below).

$(\text{Passing Score on Written Examination} \times 60\%) + (\text{Assessment Center Score} \times 40\%) = \text{Composite Score}$

$\text{Composite Score} + \text{Seniority Points (not to exceed 10 seniority points)} = \text{Final Score} *$

* The Parties mutually agree that the Seniority Points shall be calculated at their accrued value through the day that the Assessment Center exercises are completed.

(b) For promotional candidates applying for the Fire Captain classification, the final score to be placed on the eligibility list for each candidate shall be computed by taking the candidate's written score and multiplying the written score by .50 to account for fifty percent (50%) of the candidate's composite score; by taking the candidate's Assessment Center score and multiplying that score by .50 to account for fifty percent (50%) of the composite score; by adding the products together to equal the composite score; and by adding any applicable seniority points, not to exceed ten (10) seniority points, to the composite score to compute the final score (see below).

$(\text{Passing Score on Written Examination} \times 50\%) + (\text{Assessment Center Score} \times 50\%) = \text{Composite Score}$

$\text{Composite Score} + \text{Seniority Points (not to exceed 10 seniority points)} = \text{Final Score} *$

* The Parties mutually agree that the Seniority Points shall be calculated at their accrued value through the day that the Assessment Center exercises are completed.

(c) For promotional candidates applying for the Battalion Chief classification, the final score to be placed on the eligibility list for each candidate shall be computed by taking the candidate's written score and multiplying the written score by .40 to account for forty percent (40%) of the candidate's composite score; by taking the candidate's Assessment Center score and multiplying that score by .60 to account for sixty percent (60%) of the composite score; by adding the products together to equal the composite score; and by adding any applicable seniority points, not to exceed ten (10) seniority points, to the composite score to compute the final score (see below).

$(\text{Passing Score on Written Examination} \times 40\%) + (\text{Assessment Center Score} \times 60\%) = \text{Composite Score}$

$\text{Composite Score} + \text{Seniority Points (not to exceed 10 seniority points)} = \text{Final Score} *$

* The Parties mutually agree that the Seniority Points shall be calculated at their accrued value through the day that the Assessment Center exercises are completed.

(d) Prior to October 1, 2018, each promotional eligibility list remains in existence for one year after the date on which the Assessment Center is completed, unless the eligibility list is exhausted prior to the end of the one year period. At the expiration of the one-year period, the eligibility list expires and a new examination may be held. The Department head shall appoint the eligible promotional candidate having the highest final score on the eligibility list unless the Department head has a valid reason for not appointing the person as provided for under Section 143.036(f) and (g) of the Texas Local Government Code.

(e) The parties agree that effective October 1, 2018, each promotional eligibility list remains in existence for two (2) years after the date on which the Assessment Center is completed, unless the eligibility list is exhausted prior to the two (2) year period. At the expiration of the two-year period, the eligibility list expires and a new examination may be held. The Department head shall appoint the eligible promotional candidate having the highest final score on the eligibility list unless the Department head has a valid reason for not appointing the person as provided for under Section 143.036(f) and (g) of the Texas Local Government Code.

Section 7. Effect of an Eligibility List Created Under this Article

A promotional eligibility list in existence at the time of the effective date of this Agreement shall continue in effect until its expiration pursuant to Article 4 of the 2011-2013 Meet and Confer Agreement. Any promotional eligibility list created under this article will take effect upon the expiration of any eligibility list in existence on the effective date of this Agreement.

Section 8. Appeal

(a) Written Examination

A promotional candidate may appeal the multiple choice written examination under section 143.034 of the Texas Local Government Code. The invalidation of any question or any component of the written examination shall not invalidate the remainder of the written examination.

(b) Assessment Center

A promotional candidate may not appeal, or dispute the Assessment Center or scoring of the Assessment Center to an administrative or judicial body except for fraud committed by an assessor.

(c) Passover

The appeal provisions of Texas Local Government Code 143.036 (f) and (g) apply to a person having the highest overall score if they are not appointed by the Department head.

Section 9. Statutory Override

This article supersedes the following sections of the Local Government Code: sections 143.032(a), 143.032(b), 143.032(c), and 143.032(d) to provide for an Assessment Center process as part of the promotional selection process and posting of the Assessment Center; section 143.032(f) to provide for more flexibility for the timing of scoring; section 143.032(g) to provide for a consultant to administer an Assessment Center as part of the promotional selection process; section 143.033(a) to provide for scoring of the Assessment Center component outside the presence of the promotional candidates; section 143.033(c) to provide for an Assessment Center score as part of the promotional process so that the score is not based solely on the written examination; section 143.033(d) to provide for more time to compute and post the scores of the eligibility list; section 143.034 to provide for an Assessment Center and preclude appeal except for fraud; sections 143.036 (a), 143.036(b), and 143.036(h) to provide for the promotional process in accordance with this article; and section 143.037 to allow the information to be maintained in multiple records retained in the civil service files.

ARTICLE 6

APPOINTMENT OF PERSONNEL

The two Deputy Chief position may be filled by appointment by the Department head pursuant to the process provided for in section 143.014 of the Texas Local Government Code.

The Fire Marshal designation shall be filled by appointment by the Department head. The Fire Marshal designation shall be appointed to an existing Captain, Lieutenant, or Battalion Chief ranked Officer, but may only be appointed to an existing Captain or Lieutenant rank if there is a Battalion Chief position which remains unfilled. The Fire Marshal shall be paid the same salary as a Battalion Chief regardless of whether the appointment is made to an existing Captain, Lieutenant, or Battalion Chief ranked firefighter. If the Fire Marshal designation is appointed to an existing Captain or Lieutenant, then the Fire Marshal shall move to the unfilled Battalion Chief rank, and an unfilled position shall occur in that Captain or Lieutenant rank, as applicable, and that unfilled Captain or Lieutenant rank shall be filled pursuant to the promotion process as outlined in this Agreement.

This article supersedes section 143.014(b) and section 143.014(c) of the Texas Local Government Code.

ARTICLE 7

DISCIPLINARY ACTION AND APPEALS

Section 1. Suspensions of Three (3) Days or Less

Appealable and Non-Appealable Suspensions

It is understood that some firefighters will make some errors during their career involving rule violations, including those who are good, professional firefighters. The Parties agree that written reprimands and short disciplinary suspensions are for the purpose of reinforcing the need for compliance with departmental standards and not necessarily as punishment.

The Parties agree that when a firefighter is suspended for 1, 2 or 3 days, the firefighter may choose one of two methods of dealing with the suspensions as listed below.

A. **Suspensions that may not be appealed.** The firefighter may forfeit vacation or holiday time equal to the length of the suspension, to serve the suspension with no loss of paid salary and no break in service for purposes of seniority, retirement or promotion. The forfeited vacation or holiday time will not constitute hours worked. In the event a firefighter has received a disciplinary suspension within the preceding 24-month period, the firefighter may only forfeit vacation or holiday time with the Department head's permission. The firefighter must agree that there is no right to appeal if this method of suspension is chosen and sign a waiver of appeal.

B. **Suspensions that may be appealed.** The firefighter may appeal the suspension solely to the commission. If the firefighter chooses to appeal the suspension, the hearing will be conducted as set forth in Texas Local Government Code Section 143.053.

Consideration of Suspensions of Three (3) Days or Less

The Parties agree that disciplinary suspensions of three days or less that were imposed on or after October 1, 2006, will no longer be considered for purposes of transfer or promotion after a specific period of time has passed. The specific period of time required will be equal to one year plus an additional six months for each day of suspension. This section does not apply to appealed suspensions.

After the appropriate passage of time, the Department head shall notify the commission in writing. A copy of the notification document shall be included in both the sections 143.089 (a) and (g) files, and the Department shall enter a notation in these files reflecting this. The Parties agree that the Department and the commission will not alter, destroy, conceal, or remove, any documents related to the temporary suspension, including but not limited to the letter of temporary suspension that was filed with the commission as required by Texas Local Government Code section 143.052(c), or the section 143.089 (a) or 143.089 (g) files. The original suspension paperwork shall still be subject to open records request and as evidence to negate any civil liability claim.

Section 2. Suspensions of Four (4) to Fifteen (15) Days

The Parties agree that when a firefighter is suspended for 4-15 days, the firefighter may choose one of two methods of dealing with the suspension as listed below.

A. **Suspensions that are not appealed.** The firefighter may request to use vacation or holiday time to serve the suspension with no loss of paid salary and no break in service for purposes of seniority, retirement, promotion, or any other purpose. The firefighter must agree that there is no right to appeal if this method of suspension is approved by the Department head.

If requested by the firefighter, the Department head may allow a firefighter to forfeit vacation or holiday time equal to the length of the suspension to serve the suspension with no loss of paid salary and no break in service for purposes of seniority, retirement or promotion. The forfeited vacation or holiday time will not constitute hours worked. Approval of use of vacation or holiday time will be noted in the suspension paperwork. The firefighter must agree that there is no right to appeal if this method of suspension is chosen and sign a waiver of appeal.

B. **Suspensions that may be appealed.** The firefighter may appeal the suspension to the commission or a Hearing Examiner as provided in Texas Local Government Code Sections 143.010 and 143.057.

Section 3. Suspensions of Sixteen (16) to Ninety (90) Days

A. **Mutually Agreed.** Either the Department head may offer to impose, or the firefighter facing discipline may propose to accept, a suspension without pay for a period from sixteen (16) to ninety (90) days. If the firefighter accepts the mutually agreed suspension, there shall be no right of appeal and the firefighter must sign a waiver of appeal. It is also understood and agreed that if the Department head permits the firefighter to forfeit vacation days for suspension, such vacation or holiday time shall be considered as equal punishment to unpaid days of suspension. In no case will sick leave be forfeited for unpaid days of suspension. The forfeited vacation or holiday time will not constitute hours worked.

B. **Non Agreed.** If the Department head imposes a suspension under this section the firefighter may appeal to the commission or to a Hearing Examiner as provided in Texas Local Government Code, sections 143.010 and 143.057.

Section 4. Alternative Discipline by the Department Head

In considering appropriate disciplinary action the Department head may require that a firefighter be evaluated by a qualified professional (within the City's Employees Assistance Program ("E.A.P.")). If that professional recommends a program of counseling and/or rehabilitation for the firefighter, the Department head may, as an alternative to demotion, or temporary or indefinite suspension, or in combination with a demotion or temporary suspension, require that the firefighter successfully complete the recommended program. The program of counseling and/or rehabilitation will be completed on the firefighter's off-duty time, unless the Department head approves the use of accrued vacation leave or sick leave. The firefighter shall be

responsible for paying all costs of the program of counseling and/or rehabilitation which are not covered by City's E.A.P. or the firefighter's health insurance plan. If the firefighter's misconduct involves alcohol or substance abuse-related behavior, the Department head may require that the firefighter submit to mandatory alcohol or drug testing, when ordered by the Department head, for a specified period of time not to exceed twelve (12) months.

If, after entering the program of counseling and/or rehabilitation, the firefighter fails or refuses to complete the program, the firefighter may be suspended up to and including an indefinite suspension. The firefighter has the right to appeal by filing an appeal notice in accordance with the provisions of Chapter 143. The suspension may be appealed to a Texas Local Government Code Hearing Examiner or the commission. On appeal, the commission, or 143 Hearing Examiner shall have the same duties and powers set forth in Chapter 143, but shall not have the power to substitute a program of counseling and/or rehabilitation different from the program imposed by the Department head or to substitute any period of suspension for the required program of counseling and/or rehabilitation.

Section 5. Alternative Discipline by Agreement

The Department head may offer the firefighter the opportunity to enter into an alternative disciplinary agreement under which the firefighter would accept a temporary suspension of up to ninety (90) days and if applicable, agree to successfully complete the program of counseling and/or rehabilitation recommended by the qualified professional designated by the City's E.A.P. policy. The program of counseling and/or rehabilitation will be completed during the time off for discipline or on the firefighter's off duty time, unless the Department head approves the use of accrued vacation leave or sick leave. The firefighter shall be responsible for paying all costs of the program of counseling and/or rehabilitation which are not covered by the City's E.A.P. program or firefighter's health insurance plan. If the firefighter's misconduct involved alcohol or substance abuse related behavior, the Department head may require that the firefighter submit to mandatory alcohol or drug testing, when ordered by the Department head, for a specified period of time not to exceed twelve (12) months. If the firefighter accepts the opportunity for agreed alternative discipline, the firefighter may not appeal any terms of the Agreement nor the disciplinary action.

If the firefighter fails to successfully complete the program of counseling and/or rehabilitation, the firefighter may be suspended up to and including an indefinite suspension without right of appeal and without right to bring any contract dispute under Article 9 regarding the Agreement or the disciplinary action, before any administrative or judicial body.

Section 6. Last Chance Agreement

In considering appropriate disciplinary action, the Department head may require that a firefighter be evaluated by a qualified professional (within the City's E.A.P). If that professional recommends a program of counseling and/or rehabilitation for the firefighter, the Department head may offer the firefighter, as an alternative to indefinite suspension, the opportunity to enter into a last chance agreement. The agreement may include the following provisions in addition to any other provisions agreed upon by the firefighter and the Department head.

A. The firefighter shall successfully complete the program of counseling and/or rehabilitation recommended by the qualified professional designated by the Department head.

B. The program of counseling and/or rehabilitation will be completed on the firefighter's off-duty time, unless the Department head approves the use of accrued vacation leave or sick leave. The firefighter shall be responsible for paying all costs of the program of counseling and/or rehabilitation, which are not covered by the City's E.A.P. policy or the firefighter's health insurance plan.

C. The firefighter shall agree to a probationary period not to exceed one (1) year, with the additional requirement that if, during the probationary period, the firefighter commits the same or a similar act of misconduct, the firefighter will be indefinitely suspended without right of appeal.

If the firefighter's misconduct involves alcohol or substance abuse related behavior, the Department head may require that the firefighter submit to mandatory alcohol or drug testing, upon order by the Department head, for a specified period of time not to exceed one (1) year. If the firefighter accepts the opportunity for a last chance agreement, the firefighter may not appeal any terms of the agreement. If the firefighter fails to successfully complete the agreed upon program, the firefighter may be indefinitely suspended without right of appeal.

Section 7. Local Government Code Section 143.057 Hearing Examiner Retained for Suspension In Excess of 3 Days or for Indefinite Suspension

The City recognizes that during the term of this Agreement firefighters have the right to an appeal of an indefinite suspension before a Hearing Examiner as provided in section 143.057 of the Texas Local Government Code. During the term of this Agreement, the Parties specifically agree to retain this right of appeal, as modified herein, notwithstanding any change to section 143.057 which may occur as a result of court or legislative action. This section does not limit a firefighter's ability to appeal a suspension of four (4) to ninety (90) days in the event a suspension is not mutually agreed.

Section 8. Procedures for Hearings Before Civil Service Commission and Independent Hearing Examiners

It is expressly agreed that commission hearings and hearings before Hearing Examiners under Texas Local Government Code 143.057, are informal administrative hearings. Specifically it is understood that neither the Texas Rules of Evidence ("TRE") or the Texas Rules of Court ("TRC") apply to such hearings. The burden of proof shall be by a preponderance of the evidence.

Section 9. Preemption review

The provisions of this Article preempt all contrary local ordinances, executive orders, legislation, or rules adopted by the state or by a political subdivision, including a civil service commission.

It is the specific intent of the Parties to this Agreement, that any express written provision that specifically provides for a procedure, a standard, or a practice other than what is provided for in Subchapter D of Texas Local Government Code 143, is intended to override the applicable statutory provision as allowed by Subchapter C of Texas Local Government Code chapter 142.

Section 10. Expenses

It is agreed that the City and a firefighter disciplined under this article shall share the fees and expenses equally for the hearing examiner. The expenses incurred by or for a witness are paid by the party who calls the witness. In the event a Party desires a court reporter, that Party shall bear that cost 100%. In the event the firefighter is not a member of the Association, and therefore financially responsible for his/her share of any fees; the firefighter shall deposit with the director his/her anticipated share of the fees and expenses (the amount deposited shall equal the fees and expenses for one full day) three (3) days prior to the hearing examiner's deadline to cancel. Failure to deposit the funds timely shall result in the appeal being dropped and acceptance of the discipline imposed.

In the event the fees and expenses for a hearing exceed the deposited amount, the non-association member shall pay the remaining amount due within thirty (30) days of receipt of the bill or authorize, in writing, the City to deduct the amount due from his/her next four (4) paychecks.

ARTICLE 8

BASE SALARY STEP PAY AND OTHER PAY

Section 1. Base Salary and Step Pay Qualifications

It is the goal of this Agreement to set base salary for all firefighters subject to this Agreement at the average salary of the City's peer cities plus 4%, and to achieve this goal by the end of the term of this Agreement. In order to achieve this goal in a fiscally responsible manner, the parties agree to increase the base salaries of all firefighter ranks by two percent (2%) in year one of this agreement.

In year two of this agreement, the base salary for all firefighter ranks will increase by one-half (1/2) of the difference between the then current salary for the firefighter rank and the average of the City's peer cities for that firefighter rank. If a firefighter rank salary is already at the average of the City's peer cities, then that firefighter rank will only receive the cost of living adjustment salary increase as defined below.

In year three of this agreement, the base salary for all firefighter ranks will increase to the average of the City's peer cities, plus an additional increase of 2%. If a firefighter rank salary is already at the average of the City's peer cities plus the additional 2% increase, then that firefighter rank will only receive the cost of living adjustment salary increase as defined below.

In year four of this agreement, the base salary for all firefighter ranks will increase to the average of the City's peer cities, plus an additional increase of 4%. If a firefighter rank salary is already at the average of the City's peer cities plus the additional 4% increase, then that firefighter rank will only receive the cost of living adjustment salary increase as defined below. In addition to the above base salary increases, it is the intent to pay an annual cost of living adjustment salary increase in the amount of 2% in years two, three, and four of this Agreement. If the City's non-civil service employees receive a salary increase greater than 2%, then the firefighters subject to this Agreement will receive an additional percentage salary increase of the difference between the percentage salary increase for the non-civil service employees and the 2% annual cost of living adjustment salary increase the firefighters will receive pursuant to this Agreement. Any such additional salary increase will be paid at the same time as the City's non-civil service employees receive their salary increase. *For example, if firefighters receive a 2% annual cost of living salary increase on October 1, 2020, and the City's non-civil service employees receive a 3% salary increase on January 1, 2021, then the firefighters would receive an additional 1% salary increase on January 1, 2021.*

The "average of the City's peer cities" shall be the average of the actual salary of firefighter ranks from each of the City's comparative cities as determined by the City Council. At present, those City Council selected comparative cities (the "City's peer cities") are: Carrolton, Denton, Grand Prairie, Killeen, Lubbock, Midland, Odessa, San Angelo, Waco and Wichita Falls.

For peer cities that do not have a comparable firefighter rank, the “average of the actual salary of the firefighter rank” will be determined as the midpoint between the rank above and the rank below where the absent rank would otherwise fall. *For example, if San Angelo does not have the rank Lieutenant, then the salary for Lieutenant for San Angelo would be the midpoint between the salary of a firefighter and the salary of a Captain. If the salary of a firefighter is \$50,000, and the salary of a Captain is \$90,000, then the salary for the Lieutenant rank for San Angelo would be \$70,000.*

The actual salary of firefighter ranks from each of the City’s comparative cities shall be fixed as of March 31st of each calendar year. During the month of April of each year, the City Manager, City Finance Director and the Association’s President or his/her Designee, shall review the actual salary of firefighter ranks from each of the City’s comparative cities, and shall, in good faith, determine the average of the City’s peer cities for purposes of this Agreement. In the event that the City Manager, City Finance Director, and the Associations’ President or his/her Designee cannot agree, in good faith, on the average of the City’s peer cities for a firefighter rank or ranks, this Agreement may be reopened for the limited purpose of negotiating the average of the City’s peer cities for the disputed firefighter rank or ranks only.

Base Salary increases for Fiscal Year 2020-2021 shall be postponed from October 1, 2020 to April 1, 2021 for all firefighter ranks. Those salary increases which would have been paid during the period of October 1, 2020 through March 31, 2021 shall be paid, for work performed beginning April 1, 2021, to those firefighters in two equal lump sum payments on December 1, 2021 and December 1, 2022.

In the event that a firefighter retires before April 1, 2021, that firefighter shall be paid the pro rata of the Base Salary increase for the period worked between October 1, 2020 and April 1, 2021. In the event that a firefighter retires on or after April 1, 2021, but on or before December 1, 2021, that firefighter shall be paid in full the lump sums that would have been paid on December 1, 2021 and December 1, 2022. In the event that a firefighter retires after December 1, 2021 but before December 1, 2022, that firefighter shall be paid in full the lump sum that would have been paid on December 1, 2022.

In the event that the City of Abilene receives more than the anticipated tax revenues, the City Manager, in his sole discretion, may pay to the firefighters, in part or in full, the postponed Base Salary on or before April 1, 2021. In the event that payment is made in part, the lump sum payments contemplated for December 1, 2021 and December 1, 2022 shall be reduced in kind.

For Fiscal Years 2021-2022, 2022-2023, and 2023-2024, salary increases are not postponed and shall be paid as set forth in this section 1 and the terms of this Meet and Confer agreement.

Section 2. Longevity Pay

Parties agree that effective October 1, 2018 a firefighter will receive \$4 per month per year of service for one (1) through nine (9) years of service. Beginning in service year ten (10), a firefighter will receive \$8 per month per year of service through thirty (30) years of service. Longevity pay will maximize at \$240 per month (\$2,880 per year) for service year 30 and beyond. The longevity pay schedule is reflected in Appendix D of this Agreement.

Section 3. Texas Commission on Fire Protection Certification Pay

Parties agree that effective October 1, 2018 firefighters who hold certifications from the Texas Commission on Fire Protection will receive monthly certification pay as follows:

Intermediate Officer	\$75
Advanced Officer	\$155
Master Officer	\$275

Certification pay is level specific and does not accumulate.

Section 4. Other Certification Pay

The parties agree that effective October 1, 2018, firefighters who hold five (5) or more special duty certifications that are on the approved list of certifications maintained by Fire Administration will receive \$100 per month for the special duty certifications. A firefighter must have at least five (5) approved certifications in order to receive the certification pay. Further, except as provided below, the certification pay is limited to \$100 per month regardless of the number of certifications in excess of five (5) held. The firefighter is responsible for obtaining any required periodic recertifications. Additionally, effective October 1, 2021, if a firefighter receives a TCFP Driver/Operator certification, then the firefighter will receive \$20 per month as special duty certification pay. Except for Fire Officers, the TCFP Driver/Operator certification may be used for this standalone special duty certification pay, or as one of the five approved certifications as provided in the paragraph above, but not both. Fire Officers are not eligible for this TCFP Driver/Operator certification special duty pay, but may use the TCFP Driver/Operator certification as one of the five approved certifications as provided in the paragraph above.

Additionally, effective October 1, 2019, the apparatus driver for each regularly scheduled shift will receive special duty pay of \$15 per shift. In order to qualify for this stipend, the firefighter must: (1) possess the TCFP Driver/Operator certification, and (2) actually drive the apparatus pumper or ladder during their shift. Only one driver per apparatus per shift will be paid this special duty pay. Additionally, effective October 1, 2019, Paramedic certification pay shall be \$225.00 per month, and effective October 1, 2021, Paramedic certification pay shall be \$250.00 per month

Section 5. Exemption for Deputy Fire Chief Classification

The increases outlined in Section 1 do not apply to the classification of Deputy Fire Chief. Base salary and step pay for the classification of Deputy Fire Chief will be determined by the City and will apply across the board to the rank of Deputy Fire Chief.

Section 6. Temporary Duties in Higher Classification

Out of classification pay will be paid at the hourly rate based upon the base salary of the higher classification plus EMT-Intermediate/Paramedic step pay for which the person is qualified, and no other step pay of the higher classification shall apply.

Section 7. Statutory Override

This article supersedes Texas Local Government Code: sections 141.033(a) and 143.041(b) as this article establishes more than one base salary in each classification; section 143.038(b) to pay out of classification pay at the hourly rate based upon the base salary of the higher classification plus EMT-Intermediate/Paramedic pay for which the person is qualified and excludes any other step pay of the higher classification; and sections 143.041(c) and 143.044 as this article established step pay qualifications within each classification and will be paid only according to those qualifications within each classification.

ARTICLE 9

CONTRACT INTERPRETATION DISPUTE RESOLUTION PROCEDURE

Scope of Procedure. The City and Association recognize that from time to time disagreements between the Parties may arise as to the application or interpretation of this Agreement. The Parties therefore agree that the purpose of this dispute resolution procedure is to provide a just and equitable method for resolving disagreements between the Parties regarding the application or interpretation of the provisions of this Agreement. Matters involving the interpretation, application, or alleged violations of a specific provision of this Meet and Confer Agreement shall be subject to this dispute resolution procedure. The Parties agree the provisions of this article do not apply to disciplinary actions.

Application of Procedure. If either the City or the Association has a dispute with the other Party regarding this Agreement, that Party should reduce the dispute to writing and deliver it to the other's designated representative, who for the Association shall be its President and for the City shall be its Department Head or City Manager. A firefighter may not file a request for contract dispute resolution directly with the City; all resolution requests must be approved and come from the Association.

Each matter shall state the factual basis for the dispute, identify the applicable sections of this Agreement and identify the specific remedy sought. Any claim or dispute by an employee or group of employees under this Agreement, which includes a claim for pay or benefits for any past pay periods, must be filed by the employee with the Association within ten (10) working days of the date when the employee knew or reasonably should have known of the claim. The Department Head may require by policy for submission of contract disputes within the Chain of command, but shall have a duty to determine the matter within thirty (30) days of its receipt from the Association.

If the Association does not accept the decision by the Department Head, it shall have five (5) days to notify the Department Head. The Parties shall then again attempt to resolve the matter. It is intended that during this resolution process that the labor/management group that assisted in the formation of the Agreement will provide input to their respective sides as to what was intended. If the representatives have not been successful in resolving the issue within ten (10) days from the Association's notification, the matter shall proceed to mediation or arbitration.

Mediation. If the dispute is not resolved after thirty (30) days from the Association's notification, either Party shall have the right to seek mediation of the dispute by requesting mediation in writing within ten (10) days. The mediation will proceed before a mutually agreed mediator. If a mediator is not mutually agreed upon, or if mediation is not successful, either party may elect to proceed with arbitration within ten (10) days after mediation if it is not successful. In the event the Parties resolve the dispute as a result of mediation, the mediated resolution will be in writing and will be final and binding.

Arbitration. The Parties agree the director will contact the American Arbitration Association to obtain a panel of qualified arbitrators from which to select an arbitrator.

The arbitration shall be held at the earliest available date. The hearing shall be held at a location which is convenient for all Parties and the arbitration shall be conducted informally, without strict evidentiary or procedural rules. The arbitrator shall consider and decide only the issue(s) in the dispute statement or as submitted in writing by agreement of the Parties. The hearing shall be concluded as expeditiously as possible. The arbitrator shall attempt to render a bench ruling, but in the event is unable to do so, the arbitrator shall render a written decision upon the matter within thirty (30) days after the close of the hearing.

Decision Final and Binding. The Parties specifically agree that the arbitrator's authority shall be strictly limited to interpreting and applying the explicit provisions of this Agreement. The arbitrator shall not have authority to modify the agreement or create additional provisions not included in the Agreement. The Parties agree that neither the City nor the Association shall have *ex parte* communications with the arbitrator concerning any matter involved in the grievance submitted to the arbitrator.

The written decision of the arbitrator shall be final and binding on both Parties and may not be appealed by either Party, except for any decision procured by fraud or collusion or which exceeds the arbitrator's jurisdiction, or which is based on legal conclusions or interpretations which are clearly contrary to existing law.

Expenses. Each Party shall be responsible for its own expenses in preparing for and representing itself at arbitration including witness fees, but the fees and expenses of the arbitrator shall be borne equally by the Parties. In the event a Party desires a court reporter, that Party shall bear that cost 100%.

Non-Association Members and Expenses. Dispute Resolution Requests of Non-Association members must follow the same procedure outlined by this article and in accordance with the law will be pursued by the Association, if accepted, until final resolution is reached.

However, should the request of a Non-Association member require that Association resources be used, the Non-Association member will be required to pay 100% of all expenses incurred while pursuing final disposition.

The Non-Association member shall deposit with the director his/her anticipated share of the fee (the amount deposited shall equal the fee for one full day) twenty (20) business days or such shorter period to avoid additional cancellation fees, prior to hearing date. Failure to deposit the funds shall result in the appeal being dropped.

In the event the fee for a hearing exceeds the deposited amount, the Non-Association member shall pay the remaining amount due within thirty (30) days of receipt of the bill or authorize in writing the City to deduct the amount due from his/her next four (4) paychecks.

ARTICLE 10

CIVIL SERVICE COMMISSION

Section 1. Commission

It is the desire of the City and the Association to include the Association's suggestions for members of the commission. As part of the process to appoint commissioners under section 143.006 of the Texas Local Government Code, upon the commencement of the term of this Agreement, the Association will maintain a list of three (3) names of eligible candidates with the director to serve as potential members of the commission in the event a vacancy arises for an appointment or reappointment of the commission during the term of this Agreement.

At the first meeting of the commission of the calendar year, the commission shall elect a chairperson and a vice-chairperson.

Section 2. Statutory Override

This Article supersedes section 143.006(e) Texas Local Government Code to allow for the election of a chairperson and vice-chairperson outside the month of January.

ARTICLE 11

WELLNESS

It is the desire of the City and the Association to maintain the highest standards of health in the Fire Department. Toward that goal, an annual physical examination will be conducted for each firefighter at no cost to the firefighter. It is also the desire of both parties to improve the physical well being of Department employees and that any program development take into consideration the IAFC/IAFF Wellness/Fitness initiative.

ARTICLE 12

MISCELLANEOUS PROVISIONS

Section 1. Funding Obligation

(a) The City presently intends to continue this Agreement each fiscal year through its term, to pay all amounts due, and to fully and promptly perform the obligations of the City under this Agreement. All obligations of the City shall be paid only out of current revenues or any other funds lawfully available for those obligations, including tax revenues reasonably anticipated at equal or higher total gross amounts as were collected in fiscal year 2016, and appropriated for such purpose by the City Council in compliance with the Texas Constitution, Article 11, Sections 5 and 7.

(b) In the event the City cannot meet its funding obligations after exhausting all reasonably available recurring revenue as provided in the State Constitution, this Agreement shall terminate and shall be null and void in its entirety on the first date that such funding is not met pursuant to this Agreement. If at any time during the term of this Agreement, or any extension thereof, the electorate of the City subjects the government of the City to a rollback election; and, as a result of such rollback election, the City suffers a reduction in revenues due to a reduction in the tax rate, the Association agrees to reopen the salary and other compensation provisions of this Agreement for the purpose of renegotiating the same. If sixty (60) days after these negotiations begin, no agreement has been reached, this Agreement shall terminate and be null and void in its entirety.

Section 2. No Petition

The Parties agree to the salary provided for in Article 7 and override section 141.034 of the Texas Local Government Code to preclude a petition to increase salaries during the term of this Agreement. The Association further agrees it will not support or seek any proposed Charter amendment or initiative election that would provide for any increase in wages, salary, pay, or benefits during the term of this Agreement.

Section 3. Minimum Staffing

The parties agree that, excluding the Battalion Chief and Field Resource Medic (FRM) positions, forty-eight (48) “at work and available” personnel will be considered minimum staffing for each shift of the Abilene Fire Department (AFD). This staffing level provides twelve (12) frontline pieces of equipment with four (4) personnel. “At work and available” is defined as possessing Personal Protective Equipment (PPE) and having an apparatus available on which to respond to calls for service. Minimum staffing will be maintained with the exception of brief time periods for staffing transitions (i.e. training, meetings, callback of over-timers, etc.). These time periods will not exceed four (4) hours in length. Apparatus will never be staffed with less than three (3) personnel. General Order 04 addresses situations in which a crew is working with reduced staffing.

Further, the parties agree that if additional frontline equipment pieces are added or deleted from the base number of twelve (12), then four (4) personnel per piece of equipment will be added or deleted from the base number of forty-eight (48).

Section 4. Sick Leave Buy-back

The parties agree, beginning October 1, 2021, firefighters who work a 40 hour work week may request buy-back of up to 20 hours of sick leave accrued above 720 hours of sick leave. Beginning October 1, 2022, firefighters may request buy-back of up to 40 hours of sick leave accrued above 720 hours of sick leave. *For example, if an eligible firefighter has 740 hours of sick leave accrued on October 1, 2021, that firefighter may request a buy-back of up to 20 hours of sick leave.* Sick leave buy-back will paid at the firefighter's then hourly wage.

The parties agree, beginning October 1, 2021, firefighters who work a 56 hour work week may request buy-back of up to 28 hours of sick leave accrued above 1080 hours of sick leave. Beginning October 1, 2022, firefighters may request buy-back of up to 56 hours of sick leave accrued above 1080 hours of sick leave. *For example, if an eligible firefighter has 1108 hours of sick leave accrued on October 1, 2021, that firefighter may request a buy-back of up to 28 hours of sick leave.* Sick leave buy-back will paid at the firefighter's then hourly wage.

ARTICLE 13

EMS REOPENER

The Parties agree to reopen the provisions of this Agreement for the purpose of renegotiating the same in the event the City Council takes formal action establishing the Department as the provider for emergency medical transport services and the City no longer contracts with a third party vendor for emergency medical transport services. If the Parties fail to reach an agreement within 90 days of the date negotiations begin or by the last day of any mutually agreed extension period(s) then this Agreement shall terminate and be null and void except any hiring or promotional eligibility list in effect at that time under Article 3 and Article 4 of this Agreement shall continue to be valid until the expiration of each respective list as outlined in Article 3 and Article 4.

ARTICLE 14

ASSOCIATION BUSINESS LEAVE

Section 1. Creation of Association Business Leave. Authorized Association Representatives shall be permitted to have paid time off, designated as Association Business Leave (ABL), to conduct Association business under the conditions specified in this Article.

Section 2. Permitted Uses of ABL. ABL may be used for activities that directly support the mission of the Department or the Association, or are deemed mutually beneficial to both the Department and Association, but do not otherwise violate the specific terms of this article. It is specifically understood and agreed that no paid time off shall be utilized for political lobbying at the local, state, or national level.

Section 3. Written Request Required

(a) All requests for ABL must be made in writing by the Association President and submitted to the Department head at least five (5) calendar days in advance of the date of the requested leave. To be considered timely, the request must be received in person, by fax, or by electronic mail by noon of the day notice is due. The Department head, in his/her discretion, may approve a late request for leave if he/she determines that circumstances warrant approval and it does not disrupt operations of the Department. All requests are subject to approval of the Department head who will designate the number of days' leave granted.

(b) Administrative procedures and details regarding the implementation of this Article shall be specified in Departmental policy.

Section 4. Establishment of Association Business Leave Balance

It is the desire of both Parties to sustain a reasonable balance in the Association Business Leave pool. To facilitate this goal, a firefighter who has in excess of 1080 hours of accrued sick leave (shift personnel) or 720 hours of accrued sick leave (staff personnel) may make an annual donation of up to 24 hours of sick leave (shift) or 20 hours of sick leave (staff) toward the ABL balance. A firefighter who does not have the previously stated threshold balances of accrued sick leave may make an annual donation of up to 12 hours of vacation or holiday leave (shift) or 10 hours of vacation or holiday leave (staff) toward the ABL balance. This annual donation must be submitted on forms developed for this purpose to Human Resources no later than October 21 of each year. To further sustain the fund, at retirement a firefighter who has in excess of 1080 hours of accrued sick leave (shift personnel) or 720 hours of accrued sick leave (staff personnel) may make a one-time donation of up to 96 hours of sick leave (shift) or 80 hours of sick leave (staff). Both Parties agree that the usage of Association Business Leave by Association members will be capped at one thousand (1,000) hours per year.

ARTICLE 15

TERM OF AGREEMENT

Section 1. Term

This Agreement shall have an effective date of October 1, 2019, and shall remain in full force and effect through September 30, 2023, and extended thereafter until superseded by a new agreement or until April 1, 2024, whichever occurs first.

Section 2. Notice of Intent to Negotiate

Association shall provide to City notice of intent to negotiate, pursuant to Section 2 of this Article, no later than May 15 of each year of the Agreement.

ARTICLE 16

SAVINGS CLAUSE AND PREEMPTION PROVISION

Section 1.

If any provision of this Agreement is rendered invalid by a court of competent jurisdiction, such invalidity shall not affect any other provision of this Agreement, which shall continue to be in full force and effect for the duration of the Agreement, and the Parties shall meet as soon as possible to agree on a substitute provision. However, if the Parties are unable to agree within thirty (30) days following commencement of the initial meeting, then the matter shall be postponed until Meet and Confer negotiations are resumed. To this end, the provisions of this Agreement are severable. This Agreement may be amended by written mutual agreement.

Section 2.

The provisions of this Agreement shall supercede the provisions of any statute, Executive Order, local ordinance, or rule, which are in conflict herewith, including for example and not by way of limitation, the contrary provisions of Chapter 143; Ordinances of the City of Abilene, Texas; and Rules and Regulations of the Firefighter's Civil Service Commission for the City of Abilene, Texas. This preemption provision is authorized by section 142.117 of the Texas Local Government Code, and the Parties have expressly agreed that each and every provision involving or creating such a conflict shall have the effect of superceding the statutory standard or result which would otherwise obtain, in the absence of this Agreement.

SIGNATURE & EXECUTION PAGE

THE FOREGOING INSTRUMENT AS BEEN DULY NEGOTIATED, REVIEWED, AND AGREED TO BY EACH OF THE SIGNATORIES INDICATED BELOW:

THE CITY OF ABILENE, TEXAS

(Approved by Abilene City Council on the _____ day of _____, 2020)

By: _____
ROBERT HANNA
CITY MANAGER

Dated: _____

ATTEST:

SHAWNA ATKINSON
CITY SECRETARY

APPROVED:

APPROVED AS TO FORM:

CANDE FLORES, FIRE CHIEF

STANLEY SMITH, CITY ATTORNEY

**THE ABILENE PROFESSIONAL FIRE FIGHTERS ASSOCIATION,
IAFF, LOCAL #1044**

(Ratified by APFFA Membership on the _____ day of _____, 2020).

By: _____
JUSTIN BULLOCK
PRESIDENT, APFFA - IAFF LOCAL #1044

Date: _____

By: _____
CHUCK GALCO
SECRETARY, APFFA – IAFF LOCAL #1044

Dated: _____

APPENDIX A

ABILENE FIRE DEPARTMENT AMENDMENT TO THE CIVIL SERVICE PROMOTION SYSTEM FOR PROMOTION TO ALL RANKS

I. Promotional Examination Notification

- (a) The director shall publicize each vacancy and shall complete promotional examinations to fill the vacancies within ninety (90) days after the date the vacancy occurs or a new position is created if no eligibility list exists. If an eligibility list exists on the date a vacancy occurs, the vacancy shall be filled from the eligibility list within sixty (60) days after the date the vacancy occurs.
- (b) No later than ninety (90) days prior to the date a promotional examination is to be held the commission shall post a notice which lists the sources from which the examination questions will be taken. The notice shall include the name of each source to be used for the examination and the chapters used from each source. The official notice will be posted in the hallway of City Hall continuously, but may be revised from time to time to include new sources and/or delete sources that are out-of-date. Changes shall be posted at least ninety (90) days prior to the examination date. Efforts will be made to post the notices at each fire station.
- (c) Thirty (30) days prior to the date a promotional examination is held, the commission shall post a notice of the examination in plain view in the hallway of City Hall and at each fire station for a minimum of five (5) days. The notice must state the position to be filled for which the examination is being held, the date, time and place of the examination.
- (d) A Firefighter may take a promotional examination for the first tested position if he/she has served in the Department for three continuous years from the time of their hire date. Those who hold the rank of Firefighter will be eligible for promotion to the first tested position of the Department once the person has served in the Department for five continuous years. For promotions beyond the first tested position, the candidate must have held the previous rank for a minimum of two years to be eligible for testing and promotion to the next rank.

II. Promotional Examination Procedure

The Promotional Examination Procedure will consist of two parts.

- (a) A written examination, as defined in Article 4 of the Agreement, consisting of one-hundred (100) multiple choice questions; and upon passing the written examination part of the promotional examination procedure,

(b) Participation in an Assessment Center.

III. Promotional Written Examination Criteria

All promotional candidates shall be given a written examination in accordance with the requirements of this Amendment and Article 4 of the agreement.

The City will contract with a consultant for preparation of the written examination. The consultant will develop the written examination from sources determined by the Department and the prerequisites of this Amendment.

The written examination shall be prepared so as to test the knowledge of the eligible promotional candidates concerning information and facts, or the application of information and facts, based upon material drawn from the sources listed on the Notice of Source Materials for the Written Examination posted by the commission no later than ninety (90) days prior to the examination.

The specific titles of the source materials will be selected and announced in accordance with the ninety (90) day notice. The written examination Source Material shall be of reasonably current and revised publication. It is the responsibility of the candidate to obtain the source materials for the written exam.

All eligible promotional candidates shall be given the written examination in the presence of each other. An exception will be made for a qualified promotional candidate who is serving on active military duty outside of this state or in a location that is not within reasonable geographic proximity to the location where the test is being administered. In this case, the provisions of the Texas Local Government Code §143.032 (b) will be followed and the commission may adopt rules providing for the efficient administration of promotional examinations to eligible promotional candidates who are members of the armed forces serving on active military duty. If the promotional candidate will continue to be on active military duty on the date(s) of the scheduled Assessment Center, the candidate will not be required to participate in the Assessment Center and the written examination score shall account for one-hundred percent (100%) of all promotional candidates' examination scores.

All of the questions asked in the written examination shall be prepared and composed in such a manner that the scoring of examination papers can be promptly completed immediately following the examination. The written examination questions shall be based upon the duty requirements for the position being tested.

Each written examination shall be scored with a mechanical or electronic scoring system immediately upon a candidates' completion of the examination. The scoring may be completed by hand if the mechanical or electronic scoring system fails or malfunctions.

The scoring of each written examination shall be completed at the examination site and in the presence of the candidate who requests it.

The score of seventy percent (70%) on the written examination shall be considered passing. Those who do not pass the written examination shall be eliminated from further consideration.

Candidates possessing the top scores from the written examination shall participate in the Assessment Center based upon the following formula:

- (a) For the position of Fire Lieutenant: Four (4) candidates for each anticipated position, as determined by the Department head, but not less than twelve (12) shall attend the Assessment Center. In the event that less than twelve (12) persons pass the written examination, only the passing number of candidates will participate in the Assessment Center.
- (b) For the positions of Fire Captain and Fire Battalion Chief: Four (4) candidates for each anticipated position, as determined by the Department head, but not less than eight (8) shall attend the Assessment Center. In the event that less than eight (8) persons pass the written examination, only the passing number of candidates will participate in the Assessment Center.

TIE BREAKER - When two (2) or more candidates have the equal scores on the written examination for the last position and, as a result, a tie exists on the list to attend the Assessment Center, all of the candidates tied for last position will attend the Assessment Center.

IV. Promotional Examination Assessment Center Criteria

The Assessment Center shall be administered by a consultant independent of the Department and the City.

The City will contract with the consultant to design and administer an Assessment Center promotional process for the Department according to the prerequisites of this Amendment. The consultant is responsible for the preparation and security of each promotional Assessment Center.

The consultant of the Assessment Center shall be an individual or company with proven expertise in the field of administering the entire Assessment Center process. The consultant will be mutually agreed upon by the Department head and director.

The consultant will develop not less than three exercises for the Assessment Center that test the candidate's possession of the seven dimensions listed below and must include at least one Fire Ground Tactical Scenario:

1. Problem Solving/Decision Making

2. **Planning and Organization**
3. **Oral Communication**
4. **Leadership/Supervision**
5. **Adaptability**
6. **Interpersonal Skills**
7. **Written Communication Skills**

It is understood that not all dimensions listed above may be tested in an exercise.

The consultant will make available at least two (2) separate orientation sessions covering the same material to explain the Assessment Center Process, not less than seven (7) days prior to the first day that the Assessment Center is convened. Any candidate who took the test will be invited and encouraged to attend. The orientations will provide information, examples, and explanations on all aspects of the Assessment Center Process.

The consultant will select as many assessors as it requires within the following guidelines. In this section, Fire Officer shall refer to any firefighter holding the rank of Fire Lieutenant or higher.

- (a) Assessors selected must have a well-established background in the following areas: Personnel Administration; Behavioral Science; Fire Administration and Operations; and Fire Ground Command and Tactics.
- (b) There must be at least two (2) certified Fire Officer Assessors for every one (1) civilian Assessor appointed by the consultant.
- (c) All certified Fire Officer members of the Assessor board shall be of any rank equal to or higher than the position sought.
- (d) Certified Fire Officer Assessors must come from a department having a population jurisdiction of not less than fifty-thousand (50,000).
- (e) Prior to the commencement of the Assessment Center, each Assessor will certify by a signed and witnessed affidavit that he or she has not talked to or corresponded with ANY PERSON about any candidate's abilities, personality, or qualifications for promotion.

V. Tabulation of Final Scores

(a) **Written Examination:** The written score of a promotional candidate will comprise the percentage of the composite score as indicated below by rank:

1. Lieutenant – sixty percent (60%)
2. Captain – fifty percent (50%)
3. Battalion Chief – forty percent (40%)

(b) **Assessment Center:** The assessment center score of a promotional candidate will comprise the percentage of the composite score as indicated below by rank:

1. Lieutenant – forty percent (40%)
2. Captain – fifty percent (50%)
3. Battalion Chief – sixty percent (60%)

(c) **Seniority Points:** Applicable seniority points (not to exceed 10 seniority points) will be added to the composite score of the written examination and assessment center to compute the final score. (See below for rank specific examples)

1. Lieutenant

(Passing score on Written Examination x 60%) + (Assessment Center Score x 40%) = Composite Score
Composite Score + Seniority Points (not to exceed 10 seniority points) = Final Score

2. Captain

(Passing score on Written Examination x 50%) + (Assessment Center Score x 50%) = Composite Score
Composite Score + Seniority Points (not to exceed 10 seniority points) = Final Score

3. Battalion Chief

(Passing score on Written Examination x 40%) + (Assessment Center Score x 60%) = Composite Score
Composite Score + Seniority Points (not to exceed 10 seniority points) = Final Score

(d) When two or more candidates have the same final score, Section 33 (b) of the local rules will prevail.

Candidates shall be placed on an eligibility list according to their final score, highest to lowest. The list will be presented to the Department head as soon as possible after tabulation. The eligibility list will be effective for one year after the date on which the Assessment Center is completed unless the eligibility list is exhausted.

The multiple choice written examination portion of the promotional process remains subject to appeals as set forth in Section 34 of the commission's Local Rules and Regulations. A promotional candidate may not appeal, or dispute, the Assessment Center or scoring of the Assessment Center to an administrative or judicial body except for fraud committed by an assessor. The invalidation of any question or any component of the written examination shall not invalidate the remainder of the written examination.

The Department head shall retain discretion for promotions as set forth in Chapter 143 of the Texas Local Government Code.

APPENDIX B

FORMS: CONTRACT DISPUTE RESOLUTION

(forms follow next four pages)

Case No. _____

**CITY OF ABILENE
FIRE DEPARTMENT CONTRACT DISPUTE RESOLUTION FORM
FIREFIGHTER'S STATEMENT**

Name	Address	City/State	Phone
Shift/Station	Title/Rank		Phone

Statement

Briefly Describe the Issue. Include the Section or Article of the Contract in question. Use additional page if necessary.

REMEDY OR ADJUSTMENT SOUGHT: Use additional page if necessary.

Firefighter

Date

Deliver to: Association
Received by Association: Signature and Date _____

Case No. _____

**CITY OF ABILENE
FIRE DEPARTMENT CONTRACT DISPUTE RESOLUTION FORM
ASSOCIATION COMMITTEE FINDINGS AND RECOMMENDATION**

Committee Members Refer to case number for employee’s statement of facts.

Name

Name

Name

Name

Association Committee Statement

The Association Committee met and reviewed the above referenced contract dispute request and reached the following conclusion(s) on the subject.

ASSOCIATION COMMITTEE RECOMMENDATION

Solve Internally _____

Reject _____

Forward _____

Committee Representative

Date

Association Officer

Date

Date forwarded to administration (if applicable) _____

Case No. _____

**CITY OF ABILENE
CONTRACT DISPUTE RESOLUTION
FIRE DEPARTMENT**

CITY'S RESPONSE

CITY RECOMMENDATION

Leave as is:

Solve by the following action:

City Representative _____ Date _____

Case No. _____

**CITY OF ABILENE
CONTRACT DISPUTE RESOLUTION
FIRE DEPARTMENT**

ADDITIONAL INFORMATION/SUPPLEMENT SHEET

Employee’s Signature _____ Date _____

Association Committee Representative Signature _____ Date _____

APPENDIX C
WAIVER OF RIGHT TO ASSESSMENT CENTER PROCESS FORM

(form follows next two pages)

WAIVER OF RIGHT TO ASSESSMENT CENTER PROCESS PER ARTICLE 4 OF THE 2017 MEET AND CONFER AGREEMENT BETWEEN THE CITY OF ABILENE AND THE ABILENE PROFESSIONAL FIRE FIGHTERS ASSOCIATION, IAFF LOCAL 1044.

I understand that per the Meet and Confer Agreement between the City of Abilene and the Professional Fire Fighters Association IAFF Local 1044, dated _____, Article 4, Promotions, all promotions to the rank of _____ are accomplished through a written exam and an assessment center process. By executing this document, I am agreeing to waive my right to participate in an assessment center prior to promotion to the rank of _____.

I hereby agree and waive my right to participation in the assessment center in accordance with each of the following conditions:

I agree that the City of Abilene, the Abilene Fire Department or its' current or former members have not made any promise or offer to induce or persuade me to waive my rights to an assessment center.

I understand that with this waiver, scoring for this promotional process will be written exam plus seniority points.

I understand that waiving my right to the assessment center may affect my future promotional opportunities and I am entitled and encouraged to seek legal counsel before signing this wavier. I agree that the City of Abilene and the Abilene Fire Department are not responsible for any of my costs, expenses, and attorney's fees, if any, incurred in connection with any claim or the review and signing of this document.

I understand that I have **5 days** from insert date to seek counsel and execute this waiver.

I understand that I have **7 days** after executing this waiver where I may revoke the waiver. This waiver shall not become effective or enforceable until the revocation period has expired. I understand that I must provide written notice to the Civil Service Director should I decide to revoke my waiver

I understand that this agreement shall be governed by the laws of the State of Texas and the City of Abilene without effect to conflicts of law principles.

THIS WAIVER BECOMES NULL AND VOID AND OF NO FURTHER FORCE OR EFFECT IF THE CIVIL SERVICE DIRECTOR DOES NOT RECEIVE THE EXECUTED WAIVER ON OR BEFORE THE FIFTH (5th) DAY AFTER CANDIDATE FOR PROMOTION IS PRESENTED WITH THIS DOCUMENT.

IN WITNESS WHEREOF, I have placed my signature this ____ day of _____ ,

[NAME AND RANK]

On this ____ day of _____ , 201__ , before me, _____ , the undersigned, personally appeared [NAME], known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that she executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

My commission expires: _____

Date Received: _____ By: _____

APPENDIX D

**FIRE LONGEVITY PAY
Effective October 1, 2018**

# of Years	(Maximum \$240/month at 30 Years)			
	Longevity \$ / Year	# Years Tenure	\$ / Month	\$ / Year
1	\$4	1	\$4	\$48
2	\$4	2	\$8	\$96
3	\$4	3	\$12	\$144
4	\$4	4	\$16	\$192
5	\$4	5	\$20	\$240
6	\$4	6	\$24	\$288
7	\$4	7	\$28	\$336
8	\$4	8	\$32	\$384
9	\$4	9	\$36	\$432
10	\$8	10	\$80	\$960
11	\$8	11	\$88	\$1,056
12	\$8	12	\$96	\$1,152
13	\$8	13	\$104	\$1,248
14	\$8	14	\$112	\$1,344
15	\$8	15	\$120	\$1,440
16	\$8	16	\$128	\$1,536
17	\$8	17	\$136	\$1,632
18	\$8	18	\$144	\$1,728
19	\$8	19	\$152	\$1,824
20	\$8	20	\$160	\$1,920
21	\$8	21	\$168	\$2,016
22	\$8	22	\$176	\$2,112
23	\$8	23	\$184	\$2,208
24	\$8	24	\$192	\$2,304
25	\$8	25	\$200	\$2,400
26	\$8	26	\$208	\$2,496
27	\$8	27	\$216	\$2,592
28	\$8	28	\$224	\$2,688
29	\$8	29	\$232	\$2,784
30	\$8	30	\$240	\$2,880
>30	\$8	30	\$240	\$2,880